we can do much more, and we shall do much better. I would like to see the same type of protections that are available to the good people of Texas afforded to everyone in this great country.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from Wisconsin, Mr. FEINGOLD, is recognized to speak up to 10 minutes.

THE IMPORTANCE OF PATIENT PROTECTIONS

Mr. FEINGOLD. Mr. President, I rise today to speak about the importance of passing a meaningful Patients' Bill of Rights package that will ensure that managed care companies cannot put their cost-control measures ahead of the well-being of their patients. This legislation is absolutely vital to protecting the quality of health care for all Americans.

Many of my colleagues have spoken on various aspects of this issue over the past few weeks. But I would like to bring my colleagues' statements ''home'' by speaking a bit about what we mean when we talk about ''Protecting Patients' Rights.'' We are talking about the grim reality that the American health care system is no longer controlled by those who best understand how to treat patients—our physicians.

Instead, managed care companies, primarily HMOs but also other health insurance providers, have become so involved in the business of health care that they control nearly every aspect of health care including where the health care is provided, and by whom. Of greatest concerns to me the most is that these managed care organizations can decide whether that health care can be provided at all—they make the key medical decisions. In other words,, regardless of whether that care is determined to be medically necessary by the physician who is treating you, managed care administrators can override your doctor's medical decisions and refuse to cover the care that you need.

How does this happen? Well, managed care companies control costs by limiting supply—screening which health care providers its enrollees are permitted to see, requiring patients to go through insurance company gatekeepers prior to seeing a specialist, tracking physician practice patterns to ensure that doctors are complying with HMOs' cost-control efforts. Some HMOs go so far as to impose a gag-rule on doctors, prohibiting physicians in their system from discussing treatment options that the HMO administrators deem too expensive.

Managed care companies control how—or even whether—we receive health care. Their control over what goes on in the examination room can be matched only by their significant political clout in Washington, which they've gained in part through generous political donations. Mr. President, during earlier remarks I gave on the Patients' Bill of Rights, I talked about the power special interests wield in the health care debate, but I want to remind my colleagues and the public of those remarks, because I think it's vital that we keep the power of these wealthy interests in mind throughout this discussion.

During the last election cycle, managed care companies and their affiliated groups spent more than $3.4 million on soft money contributions, PAC, and individual contributions—roughly double what they spent during the last mid-term elections.

Managed care giant United HealthCare Corporation gave $305,000 in soft money to the parties, and $65,500 in PAC money to candidates;

Blue Cross/Blue Shield's national association gave more than $200,000 in soft money and nearly $350,000 in PAC money;

And the managed care industry's chief lobby, the American Association of Health Plans, has given nearly $60,000 in soft money in the last two years.

Mr. President, these numbers are just the tip of the iceberg, but I mention them today to present a clearer picture of the power the managed care industry wields in Washington as we debate managed care reform. As we talk here on the floor about why Americans have such an important stake in this body passing the Patients' Bill of Rights, we should also be aware of what a huge stake the industry has in stopping this legislation, and how they have used the campaign finance system to protect their interests.

Regardless of how you feel about any particular Patients' Bill of Rights proposal, I think any reasonable person would agree that an arrangement where someone has financial incentives to deny health care to my family and me—that the very existence of such incentives has to raise flags. As a parent, and as a consumer, I want to be sure that managed care cost-control systems don't compromise the quality of health care for my family and me.

So I want to make it clear that the central goal of protecting patients' rights is to ensure that medical necessity is what drives our health care. That's what we're talking about. We need to be sure that the people making health care decisions are licensed health care professionals, not administrative personnel whose primary mission is to protect their bottom line. I do not think that is an outrageous, pie-in-the-sky goal. I think it's a common sense expectation when I buy health insurance for my family, and I don't think any of my colleagues would demand any less from their own health insurance.

During the year or so since Senators DASCHLE and KENNEDY first introduced the Patients' Bill of Rights, I have had the opportunity to visit every county in my state to speak with my constituents and to find out what issues they care about. I can tell you that health care—the quality of health care, the availability of health care—is consistently one of the top issues that my constituents raise with me. In general, the quality of health care in Wisconsin is quite good. Wisconsin was one of the first states to regulate HMOs as insurance providers, and the state has developed a set of basic, common sense patient protections—many of which are included in S. 6, the Democratic Patients' Bill of Rights.

Mr. President, I would like to share a story that was told to me by a pediatrician who practices in Madison, Wisconsin. This pediatrician told me about a newborn infant she saw who looked fine upon first examination, but on the second day, the pediatrician detected a heart murmur. Knowing that this newborn urgently needed to see a specialist, the pediatrician immediately called for a referral to a pediatric cardiologist, which in this particular HMO requires first going through an adult cardiologist for the referral to a pediatric specialist. By sheer luck, a pediatric cardiologist happened to be in the hospital on a separate matter and was able to examine the baby.

The pediatric cardiologist ordered an echocardiogram and diagnosed coarctation, a tightening or narrowing of the aorta that is specific to newborns. That pediatric cardiologist happened to be in the right place at the right time—but under usual circumstances, time would have been lost while a referral was sought from an adult cardiologist. As a result, that baby immediately began receiving medication—prostaglandin—intravenously until she could be transported to Children's Hospital in Milwaukee to receive emergency heart surgery. The baby survived and is doing well.

When I heard this story, apart from relief that the baby survived, my first question was, ''What would have happened if you and the baby's parents had to go through the normal processes of the HMO's rules?'' The pediatrician told me that that process, even if expedited, would have taken at least 24 hours, which didn't sound very long until the pediatrician informed me that the untreated coarctation would have resulted in the baby's death within a few hours.

I am greatly relieved and happy that this particular baby was cared for and survived. But what I find frightening, though, is that this baby survived almost as a fluke, in spite of the system. The Patients' Bill of Rights includes a guarantee of access to pediatric specialists. Fortunately for the family of the baby with the heart murmur, many

pieces fell into place to save the baby, including a dedicated and vigilant pediatrician willing to be an advocate for her patient and a pediatric specialist in the right place at the right time. This situation didn't turn into a horror story. But we simply cannot let these sorts of happy endings happen only by chance. We must enact meaningful patient protections, such as guaranteed access to pediatric specialists as contained in the Democratic Patients' Bill of Rights but lacking in the Republican bill, to ensure that people get the care that they need.

The patient protections we are talking about ought to be part of the deal when you enroll in health insurance. These are pretty basic concerns, Mr. President, concerns that I think may get obscured sometimes when we get into jargon like ''prudent layperson,'' ''point of service,'' and so on. So when we speak about protecting patients' rights, I want to be clear that we are talking about how to make sure that corporate cost-control concerns don't result in people being denied the care that they need.

I thank the Chair.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

PATIENTS' BILL OF RIGHTS ACT OF 1999

The PRESIDING OFFICER. The Senate will now resume consideration of S. 1344, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 1344) to amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to protect consumers in managed care plans and other health coverage.

Pending:

Daschle amendment No. 1232, in the nature of a substitute.

Dodd amendment No. 1239 (to amendment No. 1232), to provide coverage for individuals participating in approved clinical trials and for approved drugs and medical devices.

The PRESIDING OFFICER. Who yields time on the pending amendment?

Mr. REID. Mr. President, I yield the Senator from California 7 minutes.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. I thank the Chair, and I thank the Democratic whip for yielding me this time.

Mr. President, I rise in favor of the Dodd amendment, which deals with access to clinical trials and access to prescription drugs. I think this is a very important amendment, and I am very proud to speak in favor of it.

Yesterday, as I left the floor of the Senate, I realized what the score was for the people: Zero. In very close votes in each case, this Republican majority voted, with rare exception, for the HMOs and against the patients of this country. It is stunning to me to see that, a most amazing thing.

As I discussed some of what happened yesterday with my Democratic friends, who happened to be women, we were all stunned at the vote against a very straightforward amendment by Senator ROBB which basically said, after a mastectomy, a doctor should determine the length of stay. It is stunning to me that that couldn't pass the Senate. The hold and the grip of the HMOs is extraordinary.

There is a cartoon in today's Washington Post that I find very interesting. It pictures huge campaign contributions. The Senator from Wisconsin talks about that all the time. I am not surprised people are cynical. All I hope is that they wake up and listen to this debate. This amendment on clinical trials is one they ought to listen to.

What is a clinical trial? A clinical trial occurs when there is a promising new therapy for a condition, a disease for which traditional therapies are not working for everyone. So what happens is people will enroll in these clinical trials; usually, they are pretty desperate at that point because their disease is not responding well to the traditional therapies. They want to get into this trial, and they want to see if they have a chance at surviving. The good news about this for society is not only will this individual have a chance of surviving, but we learn about the therapy, and, of course, it is the way we have seen therapies move into the mainstream of treatment.

Well, what is happening now with the HMOs—because they are so interested in their profits and paying their CEOs $30 million, in one case, and $50 million a year in another case—is they are cutting back on costs. So where they used to pay the costs associated with a clinical trial, not for the experimental therapy itself, because that is paid by the company that invented it, but by the associated costs, if there are reactions to the therapy, et cetera, they are cutting back on this treatment. So by their refusal to pay for the patient cost, many research institutions—particularly cancer centers—are cutting back on the clinical trials because there is a lack of payment by the HMOs, and we are running into a real serious problem.

When you continually put profit before patient care, when you continually put dollar signs ahead of vital signs, what happens is we are losing the opportunity to test these promising treatments for cancer, for Alzheimer's, for Parkinson's, for diabetes, for AIDS—you name the disease. By the way, if you ask the average American what they fear most, they will tell you it is illness; it is cancer; it is heart disease; it is stroke; it is the loss of a loved one.

So what we have is a situation where HMOs are refusing to pay the patient costs in clinical trials, and clinical trials are being cut back at the very time when we are making tremendous strides in learning more about therapies. This is a sad day.

So what we do in this amendment is essentially say let's go back to the way it always was, where the HMOs pay for the costs associated with these clinical trials for their patients. If we don't pass this amendment and this trend continues, we will reverse the trend of finding better cures for disease.

The other thing this amendment does, which is really important, is it deals with access to prescription drugs. Nearly all the HMOs have developed what is called a formulary, which is a limited list of prescription drugs for which the HMO will pay. They do this to receive discounts from drug companies and to limit the number of medications for which they pay. This is a cost-saving measure. I don't have a problem with this—except when the formulary drug isn't right for the patient, except when a doctor says the drug his patient needs is not in the formulary. What this amendment says is that the HMO must pay for the drug that a doctor determines his patient needs, even if it isn't in the list that the HMO provided.

It also says in this amendment that HMOs cannot classify a drug that is approved by the FDA as experimental, which is one of the ways they get around having to pay for a drug. They say to a patient: Well, I know your doctor wants you to use this drug, but it is experimental.

Well, if a drug is approved by the FDA, the Food and Drug Administration, then it is clear that the drug has been approved and ought to be available.

So this is a very important measure. This will ensure we keep making progress on clinical trials. This will ensure people get access to the needed drugs. I hope we will stand up, not as we did yesterday, because this Senate sat down for the people and stood up for the big money interests in this society, the HMOs and their bottom line. Let's stand up for the people and let's support this Dodd amendment.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. FRIST. Mr. President, very quickly, let me state where we are, and then I will yield to the Senator from Florida.

We are presently considering an underlying amendment on clinical trials which was put forth by Senator DODD. It is an issue we have discussed a great deal in committee. It deserves discussion and it deserves a great deal of debate because it is important. As one